

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2008-031021-001 DT

04/15/2013

HON. SHERRY K. STEPHENS

CLERK OF THE COURT
C. McCain
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

KIRK NURMI
JENNIFER L WILLMOTT

CAPITAL CASE MANAGER

EVIDENTIARY HEARING ON MOTION FOR ATTORNEY MISCONDUCT AND
WITNESS INTIMIDATION AND DAUBERT HEARING

9:43 a.m.

Courtroom SCT5C

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|-----------------------|----------------------------------|
| State's Attorney: | Juan Martinez |
| Defendant's Attorney: | Kirk Nurmi and Jennifer Willmott |
| Defendant: | Present |

Court Reporter, Mike Babicky, is present.

A record of the proceeding is also made by audio and/or videotape.

This is the time set for Evidentiary Hearing and Daubert Hearing.

Evidentiary Hearing on Attorney Misconduct Mistrial proceeds.

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LET THE RECORD REFLECT Timothy Moser appears representing witness, Grace Wong.

Prior to the matter being called, Court and Counsel confer at the bench.

Grace Wong is sworn and testifies.

Exhibit # 2 previously marked is received in evidence.

The witness testifies further.

The witness is excused.

9:51 a.m. Evidentiary Hearing on Attorney Misconduct Mistrial in recess.

9:51 a.m. Daubert Hearing proceeds.

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|-----------------------|----------------------------------|
| State's Attorney: | Juan Martinez |
| Defendant's Attorney: | Kirk Nurmi and Jennifer Willmott |
| Defendant: | Present |

Court Reporter, Mike Babicky, is present.

Prior to the matter being called, Exhibit #'s 1, 2, 3 and 4 are marked for identification.

Bryan Neumeister having been previously sworn, testifies further.

Exhibit # 1 is received in evidence.

The witness testifies further.

Exhibit # 2 is received in evidence.

The witness testifies further.

Exhibit # 3 is received in evidence.

The witness testifies further.

Exhibit # 4 is received in evidence.

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The witness testifies further.

The witness steps down.

Argument is presented as stated on the record.

The Court will further research the matter and provide a ruling this afternoon.

11:07 a.m. Daubert hearing in recess.

11:07 a.m. Evidentiary Hearing resumes.

Argument is heard on Motion for Mistrial due to Attorney Misconduct as stated on the record.

IT IS ORDERED denying the Motion for Mistrial for Attorney Misconduct.

IT IS ORDERED releasing exhibit # 3.

FILED: Exhibit Worksheet

Argument presented on Motion for Mistrial for Witness Intimidation.

Exhibit # 1 is marked for identification.

Exhibit # 1 is received in evidence.

The Court finds the Defendant has not established any trial error and no basis for mistrial.

The Court further finds the State was not in any way outside the bounds of proper behavior in the sealed hearing re: Alyce LaViolette.

IT IS ORDERED denying the Motion for Mistrial.

Discussion is held regarding the defendant's alleged Twitter account. The Court noted the defendant is in the custody of the Maricopa County Sheriff's Office. No further action will be taken at this time.

12:00 p.m. Court stands in recess.

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2:37 p.m. Court reconvenes with Defendant and respective Counsel present.

Further argument is heard regarding the admissibility of the evidence relating to the victim's cornea.

The Court finds the Defendant did not meet the requirement under Rule 702 of the Arizona Rules of Evidence. Further the Court finds the evidence is not relevant under Rule 401 of the Arizona Rules of Evidence.

The Court further finds the evidence is precluded under Rule 403 of the Arizona Rules of Evidence.

Discussion is held regarding trial issues.

3:00 p.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.